



**BOARD OF APPEALS
RULES OF PROCEDURE
ADOPTED APRIL 13, 2009
REVISED FEBRUARY 22, 2018**

The Board has been established pursuant to Section 62.23 of the Wisconsin Statute and § 255-90 of the City of Hudson Municipal Code. It assumes thereby, all responsibilities, duties and powers as provided therein. These Rules of Procedure are supplementary to the provisions of the aforementioned as they relate to the procedures of the Board.

Membership & Meeting Schedule

The Board consists of five members with first and second alternate members available. The Chairperson is designated by the Mayor.

At any hearing or meeting, the Board may elect an Acting Chairperson if the Chairperson is unavailable.

The Board meets on an as needed basis.

Quorum

A quorum consists of four (4) members, but the Board has established policy that they will not hold the hearing/meeting if five members are not available unless the applicant agrees to continue.

Sequence of Events

1. Request is made for application.
2. Application and applicable supporting information, including Rules of Procedure, is provided.
3. Application and supporting data is submitted.
4. Zoning administration staff reviews and verifies the application is complete, reviews the site and reviews the issues with the applicant.
5. The Board is contacted to coordinate schedules to determine a meeting date and time. Members should indicate if there is a conflict of interest for which they feel they should not participate. (Note: As per Municipal Code, the hearing is to be held no later than 60 days from the date of filing.)
6. Public hearing notice is submitted to the *Star-Observer* for publication and mailed to interested parties. (Note: As per Municipal Code, notice of such hearing shall be given not more than 30 days and not less than 10 days before the hearing.)
7. Agenda is submitted to the *Star-Observer*.
 - a. If the Chairperson and/or zoning staff feel an on-site inspection is required as a group, this shall be noticed as part of the agenda.
 - b. If a closed session is required to consult with legal counsel on litigation issues only to which the Board may be a party, it shall be noticed as part of the agenda.

8. Information packets are sent out to the Board members (including alternates) approximately one week before any scheduled hearing/meeting.
 - a. The packet includes a summary of items included in the packet, an agenda, minutes from the previous meeting, a copy of the public notice, area map showing the lot location and adjacent property owners that were mailed the public hearing notice, the application with supporting data as submitted and section(s) of Municipal Code involved. A staff summary may be included.
9. The Board should review the documents and visit the site and surrounding properties. The applicant has been informed that the Board may be reviewing the site individually.
10. The public hearing/meeting is held. An attendance sheet is available for the audience to fill in.
11. *Draft* minutes and Findings & Conclusion Notice of Decision is completed and will be forwarded to the applicant and the Board *within two (2) weeks* of the hearing/meeting to facilitate any corrections to be done in a timely manner.

Meeting Steps

1. Chairperson calls meeting to order. If the Chairperson is not in attendance, the secretary will call the meeting to order and request election of an Acting Chairperson.
 - a. Note attendance by roll call vote.
 - b. Chairperson states to the audience that an attendance sheet is available to sign.
2. Consideration of past meeting minutes; amend, if necessary and **consideration of motion** to approve and place on file.
3. Chairperson should note general agenda items for the hearing/meeting.
4. Open public hearing (repeated per # of hearings scheduled).
 - a. Chairperson
 - Read hearing notice
 - Explain that this is a public hearing and that persons desiring to speak shall direct their comments to the Board. If members of the audience have questions of the Board, staff or others present, their questions should be directed to the Board upon acknowledgement from the Chairperson
 - Explain that prior to making a presentation of statement, or raising a question, persons from the audience *shall go to the lectern and state their name and address.*
 - b. Chairperson requests applicant presentation/testimony.

- c. Chairperson requests staff report – Zoning Administrator or Assistant Zoning Administrator. Staff will present the issue for consideration by the Board including:
 - owner/applicant
 - location
 - existing zoning
 - section of ordinance the request addresses
 - reason for the request
 - *purpose of ordinance*
 - d. Chairperson asks for testimony of others in audience (*must be recognized by the Chairperson prior to speaking and are to provide name and address.*)
 - e. Request if there are any further comments from the audience-
 - f. **Consideration of motion** to close public hearing.
5. Discussion of variance application information among the Board members regarding the three (3) statutory standards (1. Unnecessary Hardship; 2. Unique Property Limitation; 3. Protection of Public Interest) or appeal issues.

Stipulate findings for variance requests that minimally meet the following standards:

 1. Denial of the variance would result in hardship to the property owner due to the physical characteristics of the site.
 2. The conditions upon which a petition for a variance is based are unique to the property for which the variance is being sought.
 3. The petition for a variance is not based exclusively upon a desire to increase the value or income potential of the property.
 4. The granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.
 5. The proposed variance will not jeopardize the spirit in general and specific purposes of the ordinance.
 6. Motion for approval (*including rationale for each of the three (3) statutory standards*) and any considerations to be required if approved or denial and reason(s) why.
 7. **Consideration of motion.** A vote of four (4) members in affirmation is necessary to grant a variance – roll call vote, if needed.
 8. After final hearing:
 - Staff report on pending applications or issues.
 - Board members request/comment on issues that should be discussed in future meetings.
 9. **Consideration of motion** to adjourn.

General Information

1. The Board shall attempt to avoid ex parte contact. As defined here, ex parte contact refers to communication that occurs outside of a noticed meeting. Members of the Board have a duty to not prejudge a case and to base their decision only on the material and facts provided to them and presented at the public hearing/meeting on the case.

If ex parte contact should occur, the context of the ex parte contact should be reported at the hearing/meeting prior to a Board decision on the issue.

2. An appeal may be continued to a future hearing/meeting date at the request of the applicant, zoning staff or Board member upon motion procedure. Reasons for continuance may be to provide an opportunity to have a group on-site inspection of the site, for the applicant and/or zoning staff to review issues and other alternatives, if a five-member board is not available, etc.